

August 18, 2004

LEONA ORR
24909 114TH AVE SE
KENT WA 98030-6568

Subject: Complaint filed against Debra Raplee - PDC Case No. 04-399

Dear Mrs. Orr:

The Public Disclosure Commission staff has completed its investigation of your complaint filed on February 19, 2004, alleging that Debra Raplee sponsored, with actual malice, political advertising that contained false statements of material fact about you when you were a candidate in 2003 seeking re-election to the Kent City Council.

The PDC staff reviewed your allegations in light of the following statute:

RCW 42.17.530 prohibits a person from sponsoring, with actual malice, political advertising that contains a false statement of material fact about a candidate for public office. "Actual malice" means to act with knowledge of falsity or with reckless disregard as to truth or falsity. Any violation must be proven by clear and convincing evidence.

You alleged that Debra Raplee, also a 2003 candidate for the Kent City Council, sponsored, with actual malice, two political advertisements that contained false statements of material fact about you. You further alleged that Ms. Raplee's voter's pamphlet message contained false statements about you.

Specifically, you alleged that Ms. Raplee sponsored, with malice, a political advertisement that contained these false statements:

Leona Orr has welcomed [a convicted sex offender] to Kent.

Leona Orr has put you and your children at risk by voting to allow sex offender housing in Kent.

We found that:

- The Washington State Legislature passed legislation in 2001 and 2002 that established siting requirements for Secure Community Transition Facilities (SCTFs) to be followed by the Washington State Department of Social & Health Services (DSHS) and local jurisdictions.

- Cities and counties were required to amend their local comprehensive plans by September 1, 2002 [later extended to October 1, 2002], to allow for the siting of SCTFs. Any local jurisdiction failing to plan for the siting of SCTFs effectively forfeited its authority or oversight in the siting process if DSHS later elected to site an SCTF within the jurisdiction.
- The Kent City Council, on September 17, 2002, passed Ordinance 3615, which provided for the siting of SCTFs within the city of Kent.

While ordinance 3615 did not affect whether the state could site a Secure Community Transition Facility within the city of Kent, the ordinance did provide for the siting of SCTFs, should the city be selected by the state for siting. Thus, the first statement in the ad, *“Leona Orr has welcomed [a convicted sex offender] to Kent”* was an expression of the Raplee campaign’s interpretation of the meaning of your vote for ordinance 3615. As such, it represented the campaign’s opinion and was not a statement of fact covered by RCW 42.17.530.

Likewise, the second statement in the ad, *“Leona Orr has put you and your children at risk by voting to allow sex offender housing in Kent”* represents the Raplee campaign’s opinion of the meaning of the vote and of the vote’s impact. Thus, it was not a statement of fact covered by RCW 42.17.530.

You also alleged that Ms. Raplee’s Voter’s Pamphlet message included the following false statement about you: *“Current council members . . . laid off workers.”* Your complaint states that the Mayor has the sole authority to lay off workers.

We found that:

- The City of Kent’s budget process starts in the first quarter of a calendar year and culminates with the Council receiving, in the third quarter of that same calendar year, the Mayor’s proposed budget for the following year.
- The Council, between October and December, reviews the proposed budget, holds public hearings, and recommends any final adjustments deemed necessary.
- The Council adopts the following year’s final budget in November or December.
- The 2003 budget adopted by the Council in late 2002 called for 35 staff positions to be cut or frozen.

Regardless of who determines which individual employees are impacted by the budget once it is adopted, the statement regarding staff lay offs is not false since the budget did call for staff reductions and it was adopted by the city council at the end of 2002.

Finally, you alleged that a political advertisement regarding your voting record contained these false statements:

Leona Orr ...

Voted to raise all utility rates by another 1.2%

Voted to approve the Salary Commission and increase the mayor's salary by 25%

Voted to increase her salary along with other council members and judges

We found that:

- The Kent City Council does not set utility rates. Rates are generally set by the utility with oversight from the Washington State Utilities & Transportation Commission.
- The Kent City Council voted in June 2003 to levy a 1.2% utility tax rate. You were a member of the Kent City Council in June 2003.

The utility rate was not increased by the council's June 2003 vote, but the tax approved by the council did increase the overall utility bill paid by customers. PDC staff found no evidence to suggest that Ms. Raplee acted with malice when she failed to distinguish between the utility rate and the utility rate tax.

Your remaining allegations that the statements: 1) "*Leona Orr voted to approve the Salary Commission and increase the mayor's salary by 25%;*" and 2) "*Leona Orr voted to increase her salary along with other council members and judges*" were false statements of material fact included in political advertising of the Debra Raplee campaign will be handled separately, and you will be advised at a later time of the disposition of that portion of your complaint.

After a careful review of the alleged violations and relevant facts, we have concluded our investigation and, with the concurrence of the Chair of the Public Disclosure Commission, I am dismissing the allegations in your complaint against Debra Raplee, as noted above.

If you have questions, please contact Phil Stutzman, Director of Compliance, at (360) 664-8853 or toll-free at 1-877-601-2828.

Sincerely,

Vicki Rippie
Executive Director

c: Debra Raplee